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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/986,127

11/07/2001

Richard McFarlane

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27562 7590 01/25/2007

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EXAMINER

CASLER, TRACI

ART UNIT

PAPER NUMBER

3629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/986,127

Applicant(s)

McFARLANE ET AL.

Examiner

Traci L. Casler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to papers filed on November 7, 2006.

Claim 1 has been amended.

Claims 1-12 are pending.

Claims 1-12 are rejected.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 7, 2006 has been entered.

#### ***Specification***

2. The amendment filed September 7, 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The claims are amended to include the limitation of a "centrally located firewall" and log files generated by the firewall.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims have been amended to include the limitation of a "centrally located firewall" and log files generated by the firewall.

5. The applicants original disclosure does not limit or set for the proper disclosure for the firewall being "centrally located". Applicants disclosure merely teaches a firewall in general terms, with not teachings directed towards the type or location of the firewall. Therefore, applicants amendment of "centrally located firewall" renders the scope of the claims narrower than that which is taught by the disclosure.

6. Additionally, applicant has amended to claims to identify the "firewall logs" having been generated by the firewall itself. However, the disclosure does not teach the firewall creating the log. The disclosure merely teaches the logs are created from the master system with information regarding the activity at the firewall.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6795856 Bunch; System and Method for Monitoring the internet access of a computer.

10. As to claim 1 Bunch teaches:

logging an employees internet usage thru a **centrally located** (Fig. 2 Ref. 24)

firewall( firewall(C. 3 I. 25-28/C. 2 I.14-15)

inputting company and/or organization information and guidelines(C. 9 I. 66-67)

using guidelines to create summary reports(C. 10 I. 7-10)

providing reports to supervisors when they log into monitoring system(C. 9 I.24-

26). However, Bunch fails to teach the firewall logs providing information on user

attempts to for the logs from various sources including firewalls(Pg. 1 ¶ 5

**and12).** It would have been obvious to one skilled in the art at the time of invention to combine Campbell with Bunch so as to sufficient resources to identify every data resource that could be used to access internet websites.

11. As to claim 2 Bunch teaches displaying the information to the supervisor in a detailed format. All though the reference fails to teach the specific detail of highlighting these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps would be performed regardless of the colors presented in the report. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see in re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 44(Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ 2d 1031(Fed. Cir. 1994).

12. As to claims 3, 6-7 Bunch teaches summary reports with the ability to select additional information(C. 9 I. 26-27).

13. As to claim 4 Bunch teaches the reports are provided for predetermined set time frams(C. 7 I. 53-54 and Claim 12).

14. As to claims 8, 9 and 11 Bunch teaches providing reports on a weekly, monthly and/daily basis.(C. 4 I. 37-40; C. 5 I. 5-8).

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

17. Claims 5, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,795,856 Bunch; System and Method for Monitoring the Internet Access of a Computer.

18. As to claims 5, 10 and 12 Bunch teaches a system and method for monitoring an employees internet usage, however, Bunch fails to teach an employees email account. It would have been obvious to combine monitoring email accounts with Bunch as many email accounts are access via email as well as it gives the employer access to additional activity about the users activities.

### ***Response to Arguments***

19. Applicant's arguments filed September 7, 2006 have been fully considered but they are not persuasive.

20. Applicants arguments are directed to Bunch not teaching a "centrally located firewall". Applicants arguments are directed towards sections in which Bunch discusses not using central filters and monitoring supervisor. The examiner notes these

"central modules" as discussed in Bunch are not directed to the firewall. The examiner notes there are differences in a filter and a firewall. They are not used interchangeably. In which case applicants' arguments are moot in that the applicants' claims are directed towards a centrally located "firewall" not a "filter" or module.

21. As to applicants' arguments that Bunch fails to teach that the firewall creates the logs. However, Bunch is not relied on for the creation of the logs. Campbell is used in combination with Bunch in which Campbell teaches that firewalls have and are used for creating logs of inbound and outbound network activity. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

22. As to applicants' arguments In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, applicant is arguing that the reference cannot be combined as Bunch does not teach a "central filter", therefore combining the reference with Campbell would conflict with the teachings of Campbell. However, as discussed earlier, Bunch does not limit where the



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firewall is located, furthermore, does not locate the firewall on the client modules.

Therefore when Campbell teaches monitoring activity from a "variety of data sources such as firewalls..."(¶ 12) the examiner asserts it would be obvious to combine Campbell with Bunch as they monitor information over a firewall, it would have been obvious to use the firewall in the manner as Campbell did to log both incoming and outgoing activity as preventing hackers(incoming) was the original intent when firewalls were created.

23. As to applicants arguments that even the references could be combined they fail to teach monitoring activities that did not originate from the company. The examiner notes that on Pg. 1 ¶ 5 Campbell discusses firewalls capable of creating logs the gather data of outgoing (from company) and incoming(not from company) network activity.

### ***Conclusion***

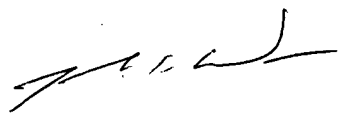
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TLC  


  
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TECHNICAL STAFF